

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Gary J. Payne,
Post Office Box 2186,
43 R Prince Street
Danvers, Massachusetts 01923

File Number 2004-121213

**Default Order Revoking
Non-Resident Producer's
License**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (2003), by the State of South Carolina Department of Insurance upon Gary J. Payne, by both certified mail, return receipt requested, and by regular mail on May 14, 2004.

That letter informed Mr. Payne of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. The letter further warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a non-resident insurance producer within the State of South Carolina. Despite that warning, Gary Payne has failed to respond to the Department's letter. On June 15, 2004, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a non-resident insurance producer within the State of South Carolina, Gary J. Payne was convicted by a Federal Court on Two Counts of "Attempt to Evade and Defeat Tax", in U.S.A. -vs- Gary Payne, District of the Virgin Islands, Division of St. Croix.

Section 38-43-130 of the South Carolina Code provides the Director or his designee "may revoke or suspend an producer's license after ten day's notice...when it appears that an producer...has violated this title or any regulation promulgated by the department, or when an agent has been convicted of a crime involving moral turpitude." Furthermore, Code Section 38-43-50 (Supp.203) provides that in order to fully qualify to transact business as an insurance agent within the State of South Carolina, a licensee must demonstrate that he or she is trustworthy. Similarly, 25 S.C. Ann. Reg. 69-23 § (6) (1989), in its Subsection (G), in listing the qualifications required to be licensed as a non-resident insurance agent, provides that one's criminal record will serve as evidence of one's moral character and trustworthiness. Barring intervening circumstances, a conviction of a crime of moral turpitude would clearly indicate a lack of moral character and prevent continued licensure as a nonresident insurance producer in the State of South Carolina.

In accordance with my findings of fact, and considering Gary J. Payne's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that he violated S.C. Code Ann. § 38-43-130 (Supp. 2003) and that his non-resident insurance producer's license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2003). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(3) (2003), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that the license of Gary J. Payne to do business as a non-resident insurance producer within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Gary J. Payne is currently licensed, through the State of South Carolina Department of Insurance, as a non-resident insurance producer within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in black ink, appearing to read "E. N. Csiszar", with a long horizontal flourish extending to the right.

Ernst N. Csiszar
Director

14 June 2004, at
Columbia, South Carolina

**Before the State of South Carolina
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SCDOI File Number 2004-121213.

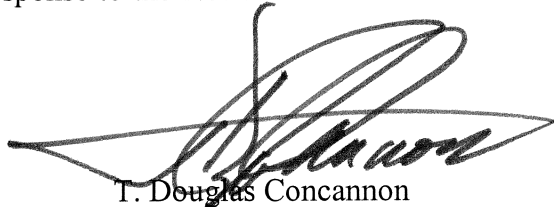
Gary J. Payne,
Post Office Box 2186
43 R Prince Street
Danvers, Massachusetts 01923

Affidavit of Default

Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was an attorney representing the State of South Carolina Department of Insurance in this administrative action. He further stated the following:

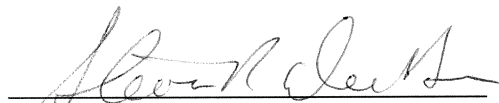
The Department served notice on the above-named respondent, at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke his license to act as a non-resident insurance producer within the State of South Carolina in thirty days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 2003), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That Notice further informed respondents of their opportunity, within thirty days, to request in writing a public hearing.

The United States Postal Service effected service of the Notice by certified mail, return receipt requested, and by regular mail, on or about May 14, 2004. The respondent has made no request for a public hearing or any other response to the Notice. The time in which to do so has expired. Gary J. Payne is now in default.



T. Douglas Concannon
Associate General Counsel

Sworn to and subscribed before me
this 15th. day of June, 2004



Steven R. DuBois
Notary Public for the State of South Carolina
My Commission Expires May 10, 2009

South Carolina Department of Insurance
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(803) 737-6132